



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TONY RACKAUCKAS

JIM TANIZAKI
CHIEF ASSISTANT D.A.

SCOTT ZIDBECK
SENIOR ASSISTANT D.A.
FELONY OPERATIONS IV

TRACY MILLER
SENIOR ASSISTANT D.A.
FELONY OPERATIONS III

EBRAHIM BAYTIEH
SENIOR ASSISTANT D.A.
FELONY OPERATIONS II

KEITH BOGARDUS
SENIOR ASSISTANT D.A.
FELONY OPERATIONS I

HOWARD R. GUNDY
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

PAUL M. WALTERS
CHIEF
BUREAU OF INVESTIGATION

JENNY QIAN
DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

Via Email Transmission: 64900-79605722@requests.muckrock.com

December 14, 2018

Robert Teel
MuckRock News
DEPT MR 62206
411A Highland Ave
Somerville, MA 02144-2516

Dear Mr. Teel,

In compliance with Government Code § 6253, this letter addresses your California Public Records Act (Gov. Code § 6250 *et seq*) request dated December 4, 2018. This letter constitutes our formal response, which is made within that statutorily required time, to your public record demand.

Please find below your request and our responses to that request.

Request No. 1: "All written transcriptions, notes, reports, memoranda, records, correspondence, or other information including any call detail reports or logs, about, in connection with or of, any and all phone calls or other communications made or received by detainees or inmates to or from a telephone number marked private or "Do Not Record," but were recorded, using Global Tel*Link Corporation or its affiliates' ("GTL") phone or communication system in which you accessed, listened to, downloaded, or otherwise recorded, including without limitation in connection with the 1,079 "inadvertent" recordings referred to in a letter from GTL to the Orange County Sheriff dated July 27, 2018 as follows:..."

Response to Request No. 1: Your request seeks records regarding "communications... made or received by detainees or inmates to or from a telephone number marked private or "Do Not Record," but were recorded." Inmates of the Orange County Jail do not receive calls while in-custody.

We will treat your request for records regarding recordings of possible confidential communications made by inmates to a telephone number designated as private or "Do Not Record" or to a telephone number possibly associated with an attorney, but which were recorded and that our office received from the Orange County Sheriff Department.

We understand your request to be records as to recordings that are part of the 1079 inadvertent recordings that were referenced in the above referenced letter and that were to numbers that had been designated as private or "Do Not Record."

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

☒ MAIN OFFICE
401 CIVIC CENTER DR W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3600

☐ NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92832
(714) 773-4480

☐ WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 896-7261

☐ HARBOR OFFICE
4601 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 478-4650

☐ JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 835-7624

☐ CENTRAL OFFICE
401 CIVIC CENTER DR. W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3952

We have responsive records to this request that are included with this response. Please note that the first page of responsive transcripts have been included so that you may order a transcript from the Certified Court Reporter. We are unable to provide you a copy of the transcript.

We have additional responsive records to this request that will not be disclosed because they are exempt from disclosure pursuant the following exemption:

1. Government Code section 6254, subdivision (f), Records of investigatory files, of a local police agency, or any investigatory files compiled by a local police agency for law enforcement purposes. This section applies to law enforcement investigatory files and records, including district attorney case files, and continues to apply even if the investigation is closed. (See *Rackauckas v. Superior Court* (2002) 104 Cal.App.4th 169; *Rivero v Superior Court* (1997) 54 Cal.App.4th 1048; *Williams v. Superior Court* (1993) 5 Cal.4th 337).
2. Government Code section 6254, subdivision (k); Records the disclosure of which is exempted or prohibited pursuant to federal or state law, specifically:
 - a. Attorney Work Product, Code of Civil Procedure section 2018.030; Penal Code section 1054.6.
 - b. Evidence Code sections 952 & 954, Attorney Client Privilege.
 - c. Official information. Evidence Code § 1040 et seq.
 - d. Penal Code section 166 – Records ordered sealed by the court.
 - e. Government Code section 69954

In conclusion, the OCDA claims for its records, such as might exist, any and all applicable exemptions from the California Public Records Act disclosure. In maintaining the lawful confidentiality of these records, the OCDA claims, enforces, and applies any and all applicable exemptions, privileges, and proscriptions against public disclosure of records, including but not limited to, those listed in Article 2 of Government Code, Title 1, Division 7, Chapter 3.5, the California Evidence and Penal Codes, and the Federal Rules of Evidence.

While we have set forth our reasons for any denials, we reserve the right to present additional theories and authority for non-disclosure in the future. If you wish to bring any additional information to our attention concerning the positions taken in this letter, please reply as soon as possible.

Sincerely,



Denise Hernandez
Deputy District Attorney
Special Prosecutions